

FEDERAL RULES OF APPELLATE PROCEDURE

rendering the decision under review may authorize the transfer and substitute the successor custodian as a party.

(b) ~~Detention or Release Pending Review of Decision Not to Release.~~ While a decision not to release a prisoner is under review, the court or judge rendering the decision, or the court of appeals, or the Supreme Court, or a judge or justice of either court, may order that the prisoner be:

- (1) ~~detained in the custody from which release is sought;~~
- (2) ~~detained in other appropriate custody; or~~
- (3) ~~released on personal recognizance, with or without surety.~~

(c) ~~Release Pending Review of Decision Ordering Release.~~ While a decision ordering the release of a prisoner is under review, the prisoner must — unless the court or judge rendering the decision, or the court of appeals, or the Supreme Court, or a judge or justice of either court orders otherwise — be released on personal recognizance, with or without surety.

(d) ~~Modification of the Initial Order on Custody.~~ An initial order governing the prisoner's custody or release, including any recognizance or surety, continues in effect pending review unless for special reasons shown to the court of appeals or the Supreme Court, or to a judge or justice of either court, the order is modified or an independent order regarding custody, release, or surety is issued.

Rule 24. Proceeding in Forma Pauperis

(a) Leave to Proceed in Forma Pauperis.

- (1) **Motion in the District Court.** Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:
 - (A) shows in the detail prescribed by Form 4 of the Appendix of Forms, the party's inability to pay or to give security for fees and costs;
 - (B) claims an entitlement to redress; and
 - (C) states the issues that the party intends to present on appeal.

FEDERAL CIRCUIT RULE

Rule 24. Proceeding in Forma Pauperis

If an appeal or petition for review is docketed without payment of the docketing fee, the clerk in providing notice of docketing will forward to the appellant or petitioner the form prescribed by this court for the motion to proceed on appeal in forma pauperis. The motion and affidavit may be made on the form provided in the Federal Rules of Appellate Procedure, but the court may request additional information from the movant.

- (2) **Action on the Motion.** If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs. If the district court denies the motion, it must state its reasons in writing.
- (3) **Prior Approval.** A party who was permitted to proceed in forma pauperis in the district-court action, ~~or who was determined to be financially unable to obtain an adequate defense in a criminal case,~~ may proceed on appeal in forma pauperis without further authorization, unless the district court — before or after the notice of appeal is filed — certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.
- (4) **Notice of District Court's Denial.** The district clerk must immediately notify the parties and the court of appeals when the district court does any of the following:
- (A) denies a motion to proceed on appeal in forma pauperis;
 - (B) certifies that the appeal is not taken in good faith; or
 - (C) finds that the party is not otherwise entitled to proceed in forma pauperis.
- (5) **Motion in the Court of Appeals.** A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).
- (b) **Leave to Proceed in Forma Pauperis on Appeal or Review of an Administrative-Agency Proceeding.** When an appeal or review of a proceeding before an administrative agency, board, commission, or officer ~~(including for the purpose of this rule the United States Tax Court)~~ proceeds directly in a court of appeals, a party may file in the court of appeals a motion for leave to proceed on appeal in forma pauperis with an affidavit prescribed by Rule 24(a)(1).

FEDERAL RULES OF APPELLATE PROCEDURE

FEDERAL CIRCUIT RULE

- (c) **Leave to Use Original Record.** A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

Practice Notes

Docketing Fee; Transcript Request. A party permitted to proceed in forma pauperis on appeal is not required to pay the docketing fee. Any request for a transcript of an agency proceeding at government expense is governed by agency regulations and must be directed to the agency.

Proceeding on Original Record. A request under Fed. R. App. P. 24(c) that an appeal be heard on the original record are rarely granted because the available informal brief procedure permits an appendix consisting only of a copy of the decision or order sought to be reviewed. See Federal Circuit Rules 28(i); 30(i); 31(e); and 32(c). See Appendix of Federal Circuit Forms, Forms 7 - 12.

No Appointment of Counsel. The court cannot appoint counsel for any party.

Effect of Prison Litigation Reform Act. Under the Prison Litigation Reform Act of 1995 (PLRA), a prisoner granted pauper status before the district court is not automatically entitled to pauper status on appeal. See 28 U.S.C. § 1915. A prisoner seeking to proceed in forma pauperis is directed to Guide for Pro Se Petitioners and Appellants for further information.